

ORDER NO. 8

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;
Dawn A. Tisdale, Vice Chairman;
Mark Acton; Ruth Y. Goldway; and
Tony L. Hammond

Postal Rate and Fee Changes

Docket No. R2006-1

NOTICE OF REQUEST FOR RECONSIDERATION
AND ORDER ESTABLISHING PROCEDURES

(Issued March 29, 2007)

On March 19, 2007, the Governors of the United States Postal Service issued a decision approving the Commission's February 26, 2007 Opinion and Recommended Decision in Docket No. R2006-1 while requesting reconsideration of three matters.¹ The three issues involve the Priority Mail Flat Rate Box, the nonmachinable surcharge for First-Class Mail letters, and Standard Mail flats. *Id.* at 2.

The Governors request the Commission "to move as expeditiously as possible" to enable mailers to plan effectively for future mailings. *Id.* Concomitant with the Decision, the Board of Governors set May 14, 2007 as the effective date for changes in rates and fees with the exception of Periodicals, for which the implementation date has been deferred until July 15, 2007.²

¹ Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Regulatory Commission on Changes in Postal Rates and Fees, Docket No. R2006-1, March 19, 2007 at 2 (Decision).

² Resolution of the Board of Governors of the United States Postal Service No. 07-3, March 19, 2007.

In a related pleading filed on March 28, 2007, the Postal Service offers procedural suggestions on the reconsideration process in general, and proposes specific resolutions of the three issues identified in the Governors' Decision.³

By this Order, the Commission establishes procedures affording participants (and other interested parties) an opportunity to provide their views on each of the issues on which reconsideration is sought. Participants should address each issue separately since the substance of each issue differs. Initial comments are due April 12, 2007; reply comments may be filed not later than April 19, 2007.

In its Initial Statement, the Postal Service anticipates that "reconsideration in this instance can be conducted without the need to reopen the record." *Id.* at 1. Any participant who believes that the record needs to be reopened and supplemented to address any matter on which reconsideration is sought must file a motion to that effect no later than April 4, 2007. Answers to any such motion are due no later than April 11, 2007. Each participant, if any, seeking to reopen the record must provide thorough justification for its request, including specific identification of the purported deficiencies in the current record for purposes of reconsideration and an explanation why that participant did not proffer the purportedly necessary materials during the hearing. Any such movant must also provide an estimate of the time needed to supplement the record.⁴

I. Flat Rate Box

The Governors contend that the Commission erred in setting the Flat Rate Box rate at \$9.15, suggesting that inconsistent cost estimates may have been used to develop the recommended rate. Decision at 14. More specifically, the Governors opine

³ Initial Statement of the United States Postal Service on Reconsideration, March 28, 2007 (Initial Statement).

⁴ The Commission recognizes that reopening the record may preclude resolving one or more issues prior to May 14, 2007, the date for implementing most changes in rates and fees. Nonetheless, the Commission concludes that the process is best served if participants are provided an opportunity to demonstrate that the record should be reopened. Participants should recognize, however, that reopening the record may compromise mailers' ability to plan effectively for future mailings, as the Governors note in requesting expedited reconsideration.

that when calculating the savings that would accrue as a result of dim-weighting Priority Mail, the Commission incorrectly used the Postal Service's attributable cost estimates instead of its own, thereby causing the savings to be understated. The Governors conclude that if the Commission had used its own cost estimates consistently in the pricing model, the resulting recommended Flat Rate Box rate would have been closer to that proposed by the Postal Service, \$8.80. *Id.*

In its Initial Statement, the Postal Service reiterates the Governors' critique, and advances additional technical arguments against the soundness of the Commission's recommended rate of \$9.15. According to the Service, adherence to the methodology and pricing model for the Flat Rate Box established on the record justifies a rate of \$8.95. Initial Statement at 5-9.

Participants are invited to comment on the merits of the Governors' and Postal Service's technical arguments, as well as the appropriate pricing objective for the Priority Mail Flat Rate Box.

II. Nonmachinable Surcharge

The Governors advocate extending the nonmachinable surcharge to letter-shaped First-Class Mail pieces of two and three ounces. *Id.* at 5. The Governors observe that the Postal Service proposed to charge nonmachinable one-ounce letters the rate proposed for one-ounce flats, \$0.62. At the recommended one-ounce rate for flats, \$0.80, the Commission found (and the Governors concur) that application of the one-ounce flats rate to nonmachinable one-ounce letters would be excessive. Thus, the Commission recommended retention of a separate nonmachinable surcharge for one-ounce letters, setting the rate at \$0.17, equivalent to the recommended First-Class Mail additional ounce rate. The Governors endorse the \$0.17 nonmachinable surcharge for one-ounce letters. *Id.*

The Governors note that the recommended rate for two-and three-ounce letters, \$0.58 and \$0.75, respectively, is identical regardless of machinability. To rectify this situation, the Governors propose that section 221.26 of the Domestic Mail Classification

Schedule be revised to eliminate application of the nonmachinable surcharge only to pieces weighing one ounce or less. *Id.* at 5-6.

In its Initial Statement, the Postal Service repeats the criticism that the Commission's recommended rates fail to include a machinability-based price differential for First-Class letters weighing over one ounce, and argues that the Commission's rationale for a surcharge at the one-ounce level applies equally to the heavier tiers, particularly in view of the sizeable recommended reduction in the additional ounce rate. The Service submits that this gap in rate design and pricing could be filled by recommending the mail classification amendment suggested by the Governors, and calculates estimates of the consequent revenue impact, which it characterizes as *de minimis*. *Id.* at 2-5.

Participants commenting on this issue should, among other matters, specify any alternative proposed outcome, and identify record evidence supporting their position.

III. Standard Mail Flats

The Governors express concern that the rates recommended for Standard Mail flats may be too high relative to those proposed by the Postal Service and may result in some dislocation, particularly within the catalog industry. *Id.* at 8-10.⁵ Thus, the Governors request that the Commission reconsider "whether some rebalancing between Standard Mail letter and flat rates might be appropriate." *Id.* at 10.⁶

In summarizing their position, the Governors are careful to note that both the Postal Service's proposed Standard Mail rates and the Commission's recommended rates achieve the Postal Service's test year revenue target. However, the concerns noted above, particularly potential challenges to the vitality of the catalog industry,

⁵ In addition, the Governors cite concern over mailers' ability to convert pieces to less costly shapes, and the potential for increased financial risks to the Postal Service at the recommended rate levels. *Id.* at 9-10.

⁶ This request appears to apply to only Standard Regular and Standard Nonprofit Regular for two reasons. First, the quoted line appears under a caption titled "*Standard Regular and Nonprofit Regular Subclasses*." Second, in the next section titled "*Standard ECR and Nonprofit ECR*," the Governors do not request reconsideration for ECR/NECR flats.

prompt the Governors to request reconsideration, focused on the appropriateness of rebalancing Standard Mail letter and flat rates. Unlike the other issues on which reconsideration is sought, the Governors do not suggest any specific “rebalancing” relief. *Id.*

In its Initial Statement, the Postal Service explicitly recognizes that, “in order to mitigate rates for flats, it would be necessary to make upward adjustments in other rates, namely, the rates for letters.” Initial Statement at 9. Further, because the Governors do not challenge the cost or cost differential estimates on which the Commission’s recommended Standard Mail rate design is based, the Service anticipates that, “it would likewise be necessary to depart to some extent from the specific passthrough levels initially chosen by the Commission.” *Id.* at 10.

Without suggesting specific adjustments, the Postal Service submits that there are opportunities for providing rate relief to flats mailers while generating approximately the same net revenue by “impos[ing] only a modest additional rate burden on letter mailers.” *Id.* In doing so, the Service asks that the Commission’s recommendations comply with two rate design criteria: (1) ensuring that the revised Regular/Nonprofit Regular 5-digit Automation Letters rate remain below the Basic ECR/NECR letters rates to continue efforts to support the letters automation program; and (2) retaining the initially-recommended dropship discounts for Regular and Nonprofit Regular letters and flats rates. Additionally, because any such flats/letters rate rebalancing would be based essentially on policy grounds, the Service submits that it is especially important to solicit the views of potentially affected Standard Mail users whose rates would be affected. In particular, the Service suggests that mailers may wish to address “their perceptions of the relative trade-offs between possible benefits of further rate adjustments, and the potential costs of further disruptions associated with any additional rate changes (which, at this point, would be of uncertain magnitude and would be implemented at an unknown date).” *Id.* at 11.

In their Decision, the Governors note that reconsideration may enable “individual mailers and their associations to address unique problems created by the Commission’s

[Standard Mail rate] recommendations.” Decision at 12. Participants commenting in favor of any rebalancing of Standard Mail letter and flat rates should specify with particularity the relief requested. Such comments should include, at a minimum, citations to the record in support of the requested relief and, if possible, specific rates consistent with the proposed relief.⁷ Participants advocating retention of the recommended rates are advised to file initial comments to that effect, explaining the basis for their position.

While the procedures adopted herein provide an opportunity for comments, the Commission reminds potential commenters of the need to rely on record evidence.⁸ Anecdotal comments unconnected to the record, particularly from persons not parties to the proceeding, are problematic and cannot be relied on by the Commission in resolving issues raised on reconsideration.⁹

It is ordered:

1. Initial comments on matters for which reconsideration has been requested are due no later April 12, 2007.
2. Reply comments are due no later than April 19, 2007.
3. Motions to reopen the record are due no later than April 4, 2007. As required by the Commission’s Rules of Practice and Procedure, answers are due no later than April 11, 2007.

⁷ In addition, such comments should include, if possible, annual volumes of flats and catalogs by rate cell. If these data are not available, commenters should so indicate.

⁸ Alternatively, judicial notice may be appropriate in some circumstances. See 39 CFR § 3001.31(i).

⁹ Comments from persons not parties to the proceeding will be included in the public comments file by the Commission.

4. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

Steven W. Williams
Secretary